

**MEMORANDUM OF UNDERSTANDING**  
Arlington County Police Department  
Law Enforcement Community Oversight Board

This Memorandum of Understanding (MOU) is entered into on the \_\_\_\_ of \_\_\_\_\_, 2023, by and between the Arlington County Police Department (ACPD) and the Law Enforcement Community Oversight Board (COB), collectively referred to as the Parties. Arlington County Code §69-2(c).

This MOU is entered into to define and outline the scope and authorized functions of the Parties, as defined in Chapter 69 of the Arlington County Code. Additionally, this MOU shall define the terms of the relationships and mutual obligations between the Parties.

This MOU shall be signed by the COB Chair, the IPA, the ACPD Police Chief, and the County Manager. The MOU shall be subject to review and approval of the County Board.

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**I. Conflicts and Confidentiality Order**

Pursuant to Arlington County Code §69-4

- A. Each Law Enforcement Community Oversight Board (herein referred to as the "COB") member shall comply with the Virginia State and Local Government Conflict of Interests Act under Virginia Code § 2.2-3100 et seq. and shall file the annual disclosure form specified thereunder for local officials.
- B. Additionally, each COB member shall upon appointment and each year thereafter sign an acknowledgment of their obligations to preserve confidentiality as provided in this MOU, the COB Bylaws, and Chapter 69 of the Arlington County Code. Records of signed confidentiality agreements shall be maintained by the office of the Independent Policing Auditor (herein referred to as the "IPA") and made available to the COB and County Police Department (herein referred to as the "ACPD").
- C. Except as included in the COB reports as hereafter defined and to the extent allowed under the Virginia Freedom of Information Act, each member shall maintain the confidentiality of all confidential or privileged information, including but not limited to:
  - 1. Office of Professional Responsibility investigative files.
  - 2. All ACPD investigative materials which include at a minimum, disciplinary actions, memos, and reports that the member receives during service on the COB.
  - 3. Statements of a police officer, or County Police Department employee, who was required by the County Police Department to give a statement.
  - 4. Criminal investigative files.
- D. All original records provided to the COB and IPA by the County Police Department shall remain official County Police Department records.
- E. Any breach of confidentiality by an Oversight Board member, as determined by the County Board, shall result in removal from the Oversight Board.

## **II. Community Oversight Board (COB)**

### **A. Appointment**

COB members are appointed by and serve at the pleasure of the Arlington County Board.

### **B. Duties**

In accordance with Arlington County Code §69-2(b) and §69-9, the COB shall have the authority to:

1. Review public complaints and the sufficiency of discipline imposed by ACPD concerning investigations completed by ACPD and the IPA.
2. Evaluate policing practices, policies, procedures, and outcomes in Arlington County.
3. Make and issue reports to the public.
4. Provide actionable recommendations to the County Board, the County Manager, and ACPD, and other public agencies regarding policing practices, policies, and procedures in Arlington County.

## **III. Independent Policing Auditor (IPA)**

### **A. Appointment**

The County Manager shall appoint an Independent Policing Auditor to serve as professional support staff for the COB, pursuant to §69-11 of the Arlington County Code.

### **B. Duties**

In accordance with Arlington County Code §69-12, the IPA shall have the authority to:

1. Provide the necessary administrative and policy support for the COB, as well as assist the COB with achieving its purpose and in carrying out its scope.
2. Hire, supervise, and make employment decisions regarding the IPA's staff in accordance with existing County Administrative Regulations and Human Resources procedures, subject to the budget and appropriation of funds.
3. Be responsible for the independent review of County Police Department current and proposed policing practices, rules, policies, procedures, directives and outcomes and present

findings of such reviews and any resulting recommendations to the Oversight Board.

4. Conduct investigations, or hire and supervise staff to conduct investigations, of complaints made by a member of the public regarding the conduct of County Police Department officers pursuant to Arlington County Code §69-9(c)(ii)-(iii).
5. Perform a quality assurance function with the goal of identifying systematic changes that will improve police services to the community.
6. Receive complaints from the public.
7. Create and manage a community complaint and case tracking system.
8. Provide support to the COB in its review of completed investigations by ACPD.
9. Provide support to the Oversight Board in its review of any disciplinary actions taken that may arise as a result of investigations conducted by the County Police Department; and
10. Maintain the confidentiality of all records not authorized for public disclosure.

#### **IV. Training**

- A. The COB members and the IPA shall receive the training necessary to develop expertise in law enforcement oversight and community policing, including, but not limited to, an abbreviated training regarding a broad range of law enforcement practices and procedures, criminal arrest procedures, case law concerning use of force, practices for people in mental health crisis or under the influence of intoxicants, the complaint process, investigative procedures, confidentiality requirements, ethics training and public records and public meeting laws.
- B. The Arlington County Police Department shall provide training as recommended by the National Association of Civilian Oversight of Law Enforcement (NACOLE) to ensure the COB and IPA understand the department's policies, procedures, and practices.
- C. The Independent Policing Auditor shall provide training as recommended by NACOLE to ensure that the COB maintains an understanding of industry standards and developments, as well as best/effective practices for police oversight.

D. Initial Orientation and Training

1. Phase 1

Newly appointed members must complete the orientation training outlined below before being certified to commence their duties.

- a. Eight (8) hours of NACOLE training
- b. 1-day ACPD Executive Staff meet and orientation training (in-person)
- c. OPR Training
- d. One (1) ACPD ride-a-long

2. Phase 2

Additionally, newly appointed members must complete the following secondary orientation training within ninety (90) days of completing the Phase 1 training listed above.

- a. Two (2) ACPD ride-a-long shifts
- b. ACPD orientation curriculum
- c. IPA supplemental training

E. Professional Development Annual Training

The COB will create an annual training curriculum in coordination with ACPD and the IPA to determine specific training provisions each year.

F. Observation of ACPD Training

The COB and IPA may attend ACPD established training to sworn police personnel. OPR will provide a training schedule established by the Training and Professional Development Unit quarterly. Any member of the COB or the IPA may inform OPR of their attendance at a minimum of seventy-two (72) hours in advance so they may be provided security and logistics.

OPR shall notify the training personnel of the COB or IPA attendance and identify the point of contact for the COB or IPA member. In the interest of safety, the COB or IPA member shall be escorted throughout the training with their point of contact.

G. Training Records

Training records shall be maintained by the office of the IPA and made available to the County Board, County Manager, and the public.

**V. Administrative Investigation – Public Complaints**

A public complaint is defined as any complaint received from a member of the public by ACPD, IPA or COB pertaining to the conduct and/or actions of any ACPD sworn employee. Public complaints may be submitted in writing, orally or anonymously. All complaints will be investigated by ACPD.

The IPA may, at their discretion, participate in all investigations of alleged officer misconduct overseen by ACPD resulting from a public complaint and shall have access to records and witness statements to the same extent as ACPD, subject to limitations set by Arlington County Code §69-8 and §69-9 (c)(ii).

Notifications of complaints received from a member of the public to any party shall be made available to all parties within five (5) calendar days of receipt of such complaint.

**A. OPR shall:**

1. Collaborate with the IPA in the development and execution of the Investigative Plan. An Investigative Plan establishes who will be interviewed and the evidence to be reviewed to complete an investigation.
2. Review with the IPA any related records within the department's Digital Evidence Management System (DEMS).
3. Review with the IPA any pertinent records within the Law Enforcement Records Management System (LERMS).
4. Complete an ACPD investigation to be reviewed by:
  - a. OPR Commander.
  - b. Employee's Chain of Command if discipline applies to investigative findings.
  - c. Chief of Police for review and issuance of discipline, when applicable.
5. Distribute the ACPD investigation to the COB and IPA when investigation is closed, within five (5) business days.

B. IPA may:

1. Collaborate with OPR in the development and execution of the Investigative Plan and the related investigation.
2. Review related records within DEMS and law enforcement records within LERMS.
3. Observe all real-time interviews of witnesses with ACPD and provide feedback during the interview to be relayed to ACPD personnel conducting the interview.
4. Collaborate with the OPR Commander and Investigators in determining next steps in the investigative process.
5. Review the facts gained from an investigation with ACPD personnel.
6. Review all recorded interviews which the IPA chooses not to attend in real-time.
7. Review the ACPD investigative documents and recordings, the disciplinary history for sustained allegations, and be kept abreast of the investigation status.
8. Develop a report at the conclusion of the investigation and provide a copy of it to the COB within fifteen (15) days. The 15-day period may be extended for an additional fifteen (15) days with notification to the COB and ACPD.

C. COB shall:

1. Review the OPR investigation.
2. Review the IPA Report.
3. Within sixty (60) days of receipt of the OPR investigation and, submit a public report concerning the investigation, detailing the following determinations, if applicable:
  - a. Concur or Not-Concur with all or some of the findings and determinations detailed in the OPR or IPA Report.
  - b. Whether ACPD's investigation was timely, thorough, objective, accurate, fair, and objective.
  - c. Training recommendations (if applicable).
  - d. Policy recommendations (if applicable).
  - e. Review the sufficiency of discipline imposed by the Chief of Police.

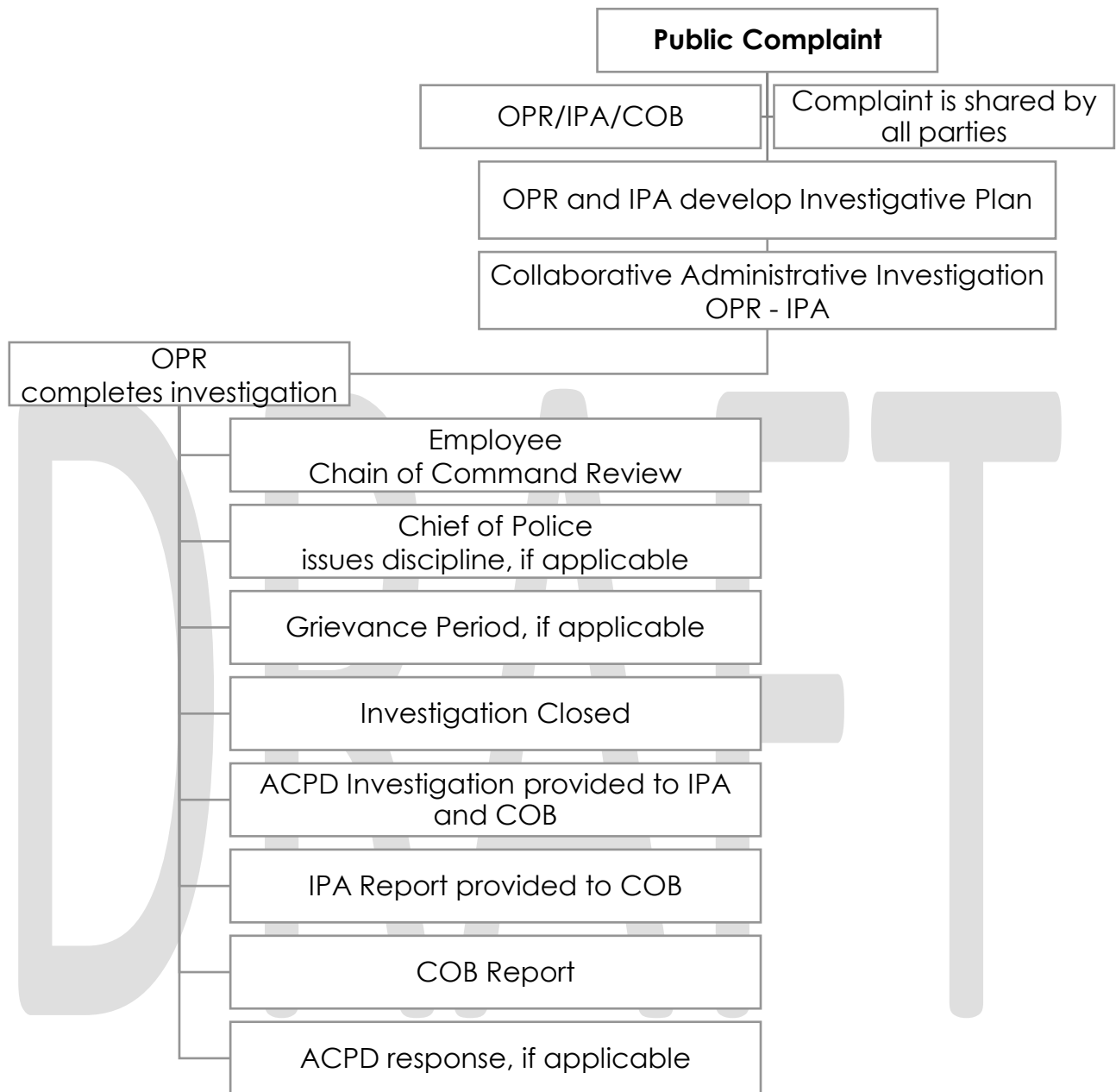


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- f. Advise the County Board, the County Manager, and the Police Chief that the ACPD or IPA findings are not supported by the information reasonably available to ACPD and recommend further review and consideration by the Police Chief; or
  - g. Advise the County Board, the County Manager, and the Police Chief that, in the COB's judgment, further investigation is needed.
- 4. The COB may extend the 60-day period for good cause with notice to the County Manager and the Police Chief.
  - 5. The COB may consider reducing the review to only a selected number of investigations or investigations of a certain nature.

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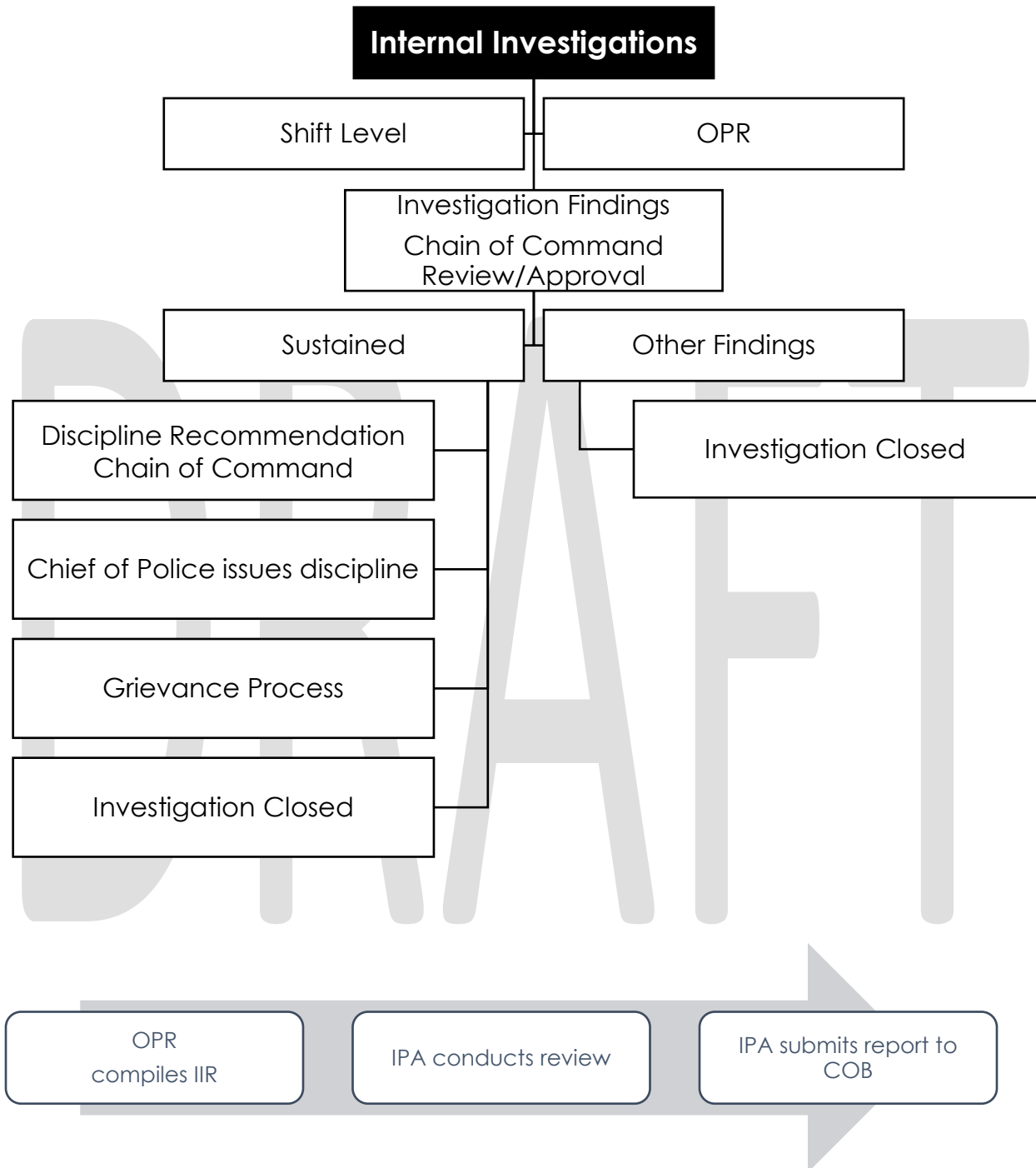


**VI. Administrative Investigation – Internal Review**

An internal administrative investigation is conducted when a complaint is received from a member of the police department, or an allegation identified or discovered by the police department pertaining to the conduct and/or actions of any ACPD sworn employee that may violate department policy and/or criminal law.

**ACPD shall:**

- A. Compile an Internal Investigative Report (IIR) of all internally generated administrative investigations and provide a copy of the IIR to the IPA by the 10<sup>th</sup> of the month following the month the report was compiled. (ex. January report compiled by February 28<sup>th</sup>, provided by March 10<sup>th</sup>)
- B. The IIR shall include:
  - Summary of the incident events, investigative methodologies and investigative findings which includes:
    - 1. An outline of evidence reviewed
    - 2. Number of persons interviewed and identification as subject officer, witness officer, or community member witness.
    - 3. Any external notifications made
    - 4. The Internal Administrative Investigation approval review process.
    - 5. Timeline of the Internal Administrative Investigation
- C. ACPD will provide the IPA and COB access to the monthly IIR through Evidence.com. Access to the IIRs for a respective year will expire on September 1<sup>st</sup> of the following calendar year.
- D. The IPA shall provide a report to the COB of the data collected and any systemic and/or policy related findings gleaned from the review.
- E. The COB and IPA may provide systemic and/or policy recommendations arising from their review of the IIR - to the Chief of Police, the County Manager, the County Board, and the public.
- F. ACPD acknowledges the IPA may request additional clarifying discussions regarding the investigations summarized in the IIR and agrees to respond to such inquiries within three (3) business days.
- G. The Chief of Police may proactively invite a collaborative investigation and/or access to an investigative file for an internal complaint in the public interest.



**VII. Administrative Investigation-** Criminal Investigations, EEOC, Office of Human Rights Complaints

- A. Arlington County Code §69-8(c), provides that ACPD shall not provide records to the COB or the IPA if the records requested are related to the following matters if such disclosure would compromise said matters through the revelation of the process, evidence, methods, scope or other factors in said matters, until such time as the matter is completed or a determination is made by the County Manager that the matter will not be compromised by the release of the requested documents:
1. Investigative files for an active criminal investigation, where it relates to an officer.
  2. Files related to an active investigation by the Commonwealth Attorney, the Virginia Attorney General, or the United States Department of Justice, or the Northern Virginia Critical Incident Response Team.
  3. Files related to an active EEOC claim involving an ACPD officer.
  4. Files related to an active Office of Human Rights investigation involving a County Police Department officer or employee.
- B. The IPA may participate in ACPD's administrative investigation of officer misconduct after the close of the active investigation specified in Arlington County Code § 69-8(c), in the same manner as investigations of officer conduct resulting from a public complaint, as described in Section VI of this MOU.

**VIII. Administrative Review – Use of Force Incidents**

An administrative review is conducted anytime an officer uses force, which will determine if the actions of the officer(s) is Within or Not-Within Policy. This review will also determine whether officer(s) actions were in compliance with law.

In accordance with Arlington County Police Department Directive Manual 538.04 Use of Force, an administrative review is conducted for all use of force occurrences to determine if an officer acted within or outside department policy. This administrative review is initially completed by the officer's chain of command, after which OPR will assess the completeness and thoroughness of the administrative review prior to closure.

In accordance with Arlington County Police Department Directive Manual 538.07 Officer Involved Action Resulting in Death or Serious Bodily Injury, a criminal investigation is conducted by the Northern Virginia Critical Incident

Response Team (CIRT) in the occurrence of an officer involved action resulting in death or serious bodily injury.

It is the responsibility of OPR to conduct an administrative review of all Use of Force and Officer Involved Action Resulting in Death or Serious Bodily Injury occurrences to determine whether an officer's actions are Within Policy or Not Within Policy. OPR and IPA shall engage in the administrative review process as outlined below.

Any criminal investigation by ACPD or any law enforcement agency cannot be administratively acted upon by OPR or the COB/IPA until the criminal matter has been resolved by arrest, a decision not to prosecute by the Commonwealth's Attorney's Office, or otherwise closed; this includes but is not limited to an Officer Involved Action Resulting in Death or Serious Bodily Injury.

A. Use of Force Review

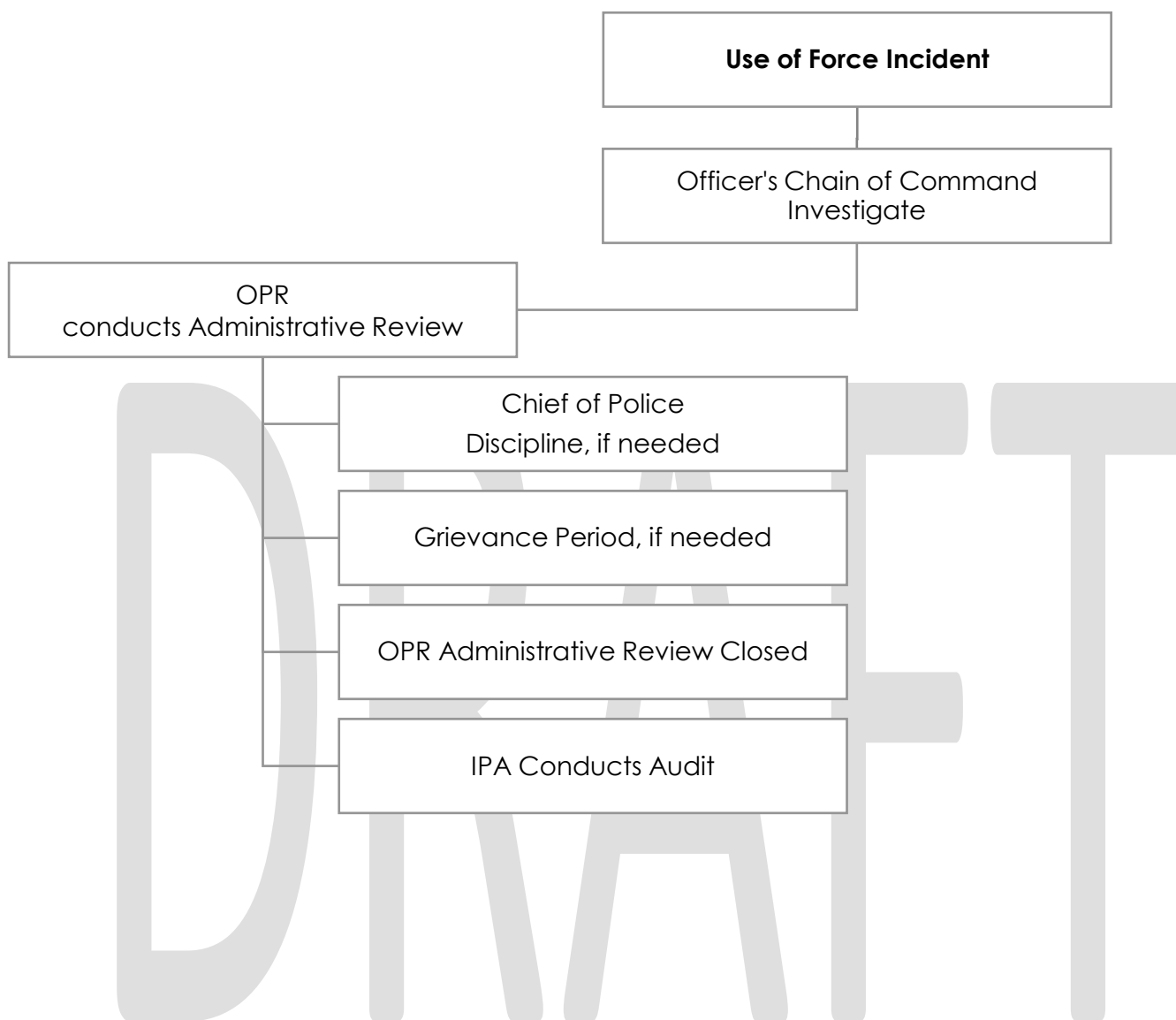
1. OPR shall:

- a. Complete a comprehensive and thorough review of all Use of Force Reviews, forwarded through the chain of command.
- b. At the completion of each such review, concur with or oppose whether the actions are Within or Not-Within Policy.
- c. If the officer's actions are determined to be Not-Within Policy, OPR will investigate the officer's actions and determine if notification to the Commonwealth's Attorney's Office is warranted.
- d. Provide a completed Use of Force Review, access to all DEMS footage and LERMS documentation related to the event to the IPA at the conclusion of the review.

2. IPA shall:

- a. Audit completed Use of Force Reviews, including all DEMS footage and LERMS documentation related to the event.
- b. Conduct a review of all documents and DEMS footage provided to determine if the officer's actions are Within Policy or Not Within Policy. Participate in a collaborative Review with OPR on the Administrative Review findings.
- c. Audit OPR Administrative Review and disclose to the COB whether they concur or oppose the findings.

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B. Officer Involved Action Resulting In Death or Serious Bodily Injury

An officer involved action resulting in death or serious bodily injury is defined as an incident involving a police officer in which a civilian is inflicted with serious bodily injury or death, including incidents that occur while a civilian is in police custody. Arlington County Police Department Directive Manual 538.07 (III)(E) also defines a "Critical Incident" as the discharge of a firearm, use of force, or other action by an officer(s) that results in death or serious bodily injury to any person, including vehicle pursuits.

1. When a critical incident occurs, the following entities will participate in their respective form of oversight in the manner and order outlined below:
  - a. Critical Incident Response Team
  - b. Commonwealth's Attorney
  - c. Office of Professional Responsibility and Independent Policing Auditor
  - d. Community Oversight Board
2. In the event the criminal investigation remains with ACPD Criminal Investigations Division in lieu of the Critical Incident Response Team, the same protocols will be applied.
3. At the conclusion of the criminal investigation completed by CIRT and the Commonwealth's Attorney's Office, OPR is responsible for completing an administrative review in collaboration with the IPA. The purpose of the review is to determine whether the involved officer's actions were in accordance with department policy, procedures, rules, and training.
4. Following the occurrence of an officer involved shooting or serious bodily injury, the following steps shall be taken:
  - a. OPR shall:
    - i. Respond to the Command Post and acquire the public safety statement from the Incident Commander.
    - ii. Identify all involved officers and arrange for any support necessary such as resources from the Peer Support Team and/or Employee Assistance Program.



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- iii. Notify the IPA of the incident within one (1) hour of event. To the extent the information is available at the time of notification, the notification shall include the following information:
    - Location, time, and nature of the incident.
    - Confirmation on whether the scene is secure.
    - Any injuries/fatalities
  - iv. Provide routine updates when any supplemental information becomes available.
  - v. Provide the COB with a briefing, at the conclusion of the criminal investigation conducted by CIRT or ACPD.
- b. IPA may:
- i. Respond to the Command Post with OPR when they acquire the public safety statement from the Incident Commander.
  - ii. View the exterior of the crime scene with OPR personnel
  - iii. Monitor real-time criminal interviews with OPR of involved officers and witnesses.
  - iv. Be present for briefings presented by CIRT to the Police Chief and the Commonwealth's Attorney's Office to receive real-time opinions and investigative steps related to the criminal investigation.
  - v. Conduct a collaborative Administrative Review with OPR, following the Commonwealth's Attorney's review and documented opinion. This includes, but is not limited to, access to all digital evidence, as well as the criminal investigation conducted by CIRT.
  - vi. Notify the COB of the incident and the status of the investigation after the criminal investigation is closed.
  - vii. Audit the OPR Administrative Review arising from the incident.
  - viii. If an Administrative Investigation arises out of the Administrative Review, the IPA may participate in the investigation as outlined in Section VI of this MOU.

5. Communication with Stakeholders, Members of the Public and Media

Until the conclusion of the related criminal investigation, the COB and IPA shall not share or opine on the facts of any ongoing criminal investigation with stakeholders, members of the public, and media regarding officer involved actions that result in death or serious bodily injury. Nothing in this section precludes the COB and IPA from disclosing information about the administrative review process outlined throughout the MOU.

At the conclusion of the criminal investigation, prior to release to the public, the ACPD Media Relations and Public Affairs Office will electronically share press releases pertaining to any 'Officer Involved Action Resulting in Death or Severe Bodily Injury' with the IPA, with as much advance notice as practicable. The IPA will share the related information with the COB, along with any necessary briefing.

Similarly, the IPA and COB will electronically share any press releases pertaining to any 'Officer Involved Action Resulting in Death or Severe Bodily Injury' with ACPD (specifically OPR and ACPD Media Relations and Public Affairs Office) prior to public release, with as much advance notice as practicable.



**IX. Administrative Findings, Recommendations and Disciplinary Actions**

In accordance with Arlington County Police Department Directive Manual 551.02 Complaint Processing and Investigation, all Administrative Investigations or Reviews will conclude with Administrative Findings.

**A. Administrative Investigation Findings**

The standard of proof for determining a finding for an Administrative Investigation is a preponderance of the evidence. At the conclusion of the investigation the investigator shall classify the investigation with one of the following findings:

1. Sustained – evidence sufficient to prove allegation
2. Not Sustained – evidence insufficient to either prove or disprove allegation.
3. Exonerated - incident occurred but was lawful and within policy.
4. Unfounded - allegation is false or did not involve a police employee.
5. In addition to the above findings, the investigator may note any or all the following in conjunction with the conclusion:
  - a. Policy failure - allegation is true, and although the action of the employee or department was consistent with department policy, but a need was identified to modify policy.
  - b. Misconduct not based on original complaint - incident involved improper action not previously identified.
  - c. Training deficiency - employee's conduct was due to inadequate or improper training.
  - d. Recommendation for services or resources related to the involved officer's well-being.

**B. Administrative Review Findings**

1. Within Policy – a review of the incident determined the officer's actions are supported by department policy and applicable federal or state laws.
2. Not-Within Policy – a review of the incident determined the officer's actions are not supported by department policy and/or applicable federal or state laws.

3. In addition to the above findings, the ACPD Investigator may assess:
  - a. Whether policy, training, or equipment issues should be addressed.
  - b. Identify officers who are becoming or are likely to become at risk to violate use of force or other department directives through the Early Intervention Program.
  - c. In accordance with applicable federal and state laws, forward the incident to the Commonwealth's Attorney's Office for assessment of a need for a criminal investigation.

C. Recommendations and Disciplinary Actions

1. In accordance with ACPD Directive Manual 551.02 Complaint Processing and Investigation, ACPD shall be guided by the Progressive Corrective Action chart to determine the appropriate disciplinary action taken.
  2. The officer's chain of command will make a Progressive Corrective Action recommendation to the Chief of Police for sustained violations of the ACPD Directive Manual.
  3. The officer's chain of command may include any mitigating or aggravating circumstances to support the recommendation.
  4. The Chief of Police is solely responsible for the issuance of discipline to ACPD personnel.
- D. All ACPD employees shall have the right to present a grievance or appeal according to Administrative Regulation (AR) 2.7 Chapter 18. At the conclusion of the grievance period, an Administrative Investigation or Review shall be considered closed.
- E. Pursuant to Arlington County Code §69-2 (a), the COB and IPA shall assess the sufficiency of the disciplinary action issued and make recommendations to the Chief of Police related to the implemented discipline.
- F. If ACPD declines to implement the disciplinary recommendations of the COB, the Chief of Police shall, within thirty (30) days, state in writing their rationale for declining to implement the recommendation. The written response shall be made available to the COB, the County Board, the County Manager, and the public. However, the discipline determined by the Chief of Police, or the Grievance Process is final.

**X. Access to Records**

**A. Confidentiality and Security of Records**

Documents and recordings in which ACPD is the custodian shall not be reproduced, distributed, or downloaded, in accordance with Arlington County Code §69-4. All records shall be considered confidential and not releasable by the COB or IPA.

**B. Pursuant to Arlington County Code §69-8, the COB and the IPA shall be provided full access to all County Police Department reports, files, and records related to their review of public complaints within 10 (ten) business days of creation or receipt of such reports.**

Reports are defined as completed Administrative Reviews or Investigations.

**C. The IPA shall provide a copy of all records submitted to the COB, to ACPD concurrently.**

**D. ACPD shall provide COB and IPA access to:**

1. Administrative Investigations or Reviews as identified in Sections VI, VIII, and IX. Arlington County Code §69-8(a).
2. Records contained in LERMS which is the department's repository for active and closed criminal investigations will only be provided as needed via a secured shared drive.
3. ACPD will provide the IPA and COB access to related body-worn camera and in-car camera recordings for their review of the Administrative Investigations of Public Complaints and Administrative Review of Use of Force Incidents. Each member of the COB and the IPA will receive access and credentials to Evidence.com, to facilitate the evidence review. Access to these recordings for a respective year will expire on September 1st of the following calendar year.
4. PowerDMS credentials which provides access to the Department Directives Manual, Memorandum of Understandings, and ACPD established trainings.
5. Training records for a specific officer may be requested by the COB or IPA related to their review, at such time following the review of an Administrative Review or Investigation.
6. Disciplinary Records of sworn personnel shall be provided to the IPA when an investigation is concluded as sustained, or at such time the OPR investigation is forwarded to the officer's chain of

command for disciplinary recommendation when an allegation is sustained. The Disciplinary Record shall only be provided to the COB during their review of the Administrative Investigation or Review to determine the sufficiency of discipline issued by the Chief of Police, pursuant to Arlington County Code §69-9(c)(ii)(2)(v). The IPA may receive the Disciplinary Record at such time the OPR investigation is forwarded to the officer's chain of command for disciplinary recommendation. The Disciplinary Record will include all sustained allegations not greater than three (3) years from the completion of the Investigation. A Disciplinary Record is a memo that includes:

- a. Date of Incident
  - b. Allegation
  - c. Finding
  - d. Discipline
  - e. Brief description of the incident
7. Access to documents and recordings in which ACPD is the custodian shall not be reproduced, distributed, or downloaded, in accordance with Arlington County Code § 69-4. All records shall be considered confidential and not releasable by the COB or IPA.
8. In accordance with Arlington County Code § 69-8(c), the IPA and COB shall not have access to:
- a. Juvenile records.
  - b. Records that may reveal the identity of personally identifiable information of a confidential informant.
  - c. Records which ACPD is not legally authorized to share.

E. Method of Sharing Data

1. ACPD shall provide the IPA access to primary data through the Data Warehouse. Data provided will not contain confidential information such as information protected by law, personally identifiable information, information that may reveal the identity of a confidential source, information that could endanger the life or physical safety of any individual, information that would disclose techniques, procedures, or guidelines used in criminal investigations or prosecutions that if revealed may reasonably be expected to risk the circumvention of the law, or information eligible for exemption from the mandatory disclosure

requirements under the Virginia Freedom of Information Act.  
Arlington County Code §69-8

2. The Data Warehouse will provide data related to:
  - a. Community Policing Data
  - b. Virginia NIBRS Agency Crime Overview
  - c. Arrest Data
3. Upon the implementation of a new CAD system, ACPD, COB, and IPA shall determine the data sets to be provided.

#### **XI. ACPD Internal Audits and Reviews**

ACPD conducts internal audits and reviews of procedures and practices. In accordance with federal, state, and accreditation standards the department retains all findings, recommendations, and actionable items within the department's secure repository. ACPD shall provide view only access to the COB and IPA of all reports or findings within thirty (30) days of completion, or upon receipt when the audit is completed by an outside entity.

#### **XII. ACPD Policies and Practices**

The COB and IPA shall have authority to review and evaluate the ACPD policies, practices, procedures and to make recommendations as set forth within §69-9(d) and §69-12 of the Arlington County Code. Additionally, the COB and IPA may collect its own data based on the independent complaints, commendations and feedback they receive from the public. The COB and IPA may, jointly and/or separately, publish an analysis of the data in the form of public-facing reports.

#### **XIII. Budget Analysis**

The COB and IPA shall jointly or separately conduct a review of the ACPD budget. ACPD will provide the COB and IPA with a presentation of their budget performance for the preceding year no later than November 1<sup>st</sup>. At the appropriate time, ACPD shall provide a second budget presentation regarding their budget change request for the upcoming fiscal year that were adopted in the County Manager's Proposed Budget to the County Board.

Additionally, the COB and IPA may also participate in the County Board public budget work sessions and provide comment regarding the proposed ACPD budget change request for the upcoming fiscal year. The COB and IPA may put in writing their budget analysis of the previous, current, or future budget year at the appropriate time.



#### **XIV. Policy and Legislative Recommendations**

Pursuant to Arlington County Code §69-9 (d)(ii), the COB may recommend policies or procedures to the County Board, the County Manager and the Police Chief concerning police practices, policies, and procedures.

Additionally, pursuant to Arlington County Code §69-9 (d)(i)(5), the COB may recommend legislation, government policy changes and other actions related to the duties of the COB to the County Board, the County Manager, ACPD, and other public agencies.

Pursuant to Arlington County Code §69-12 (e), the IPA shall similarly make recommendations pertaining to ACPD policies, practices, and procedures, as well as make recommendations pertaining to legislation, policy changes and other actions related to the duties of the collective oversight responsibilities of the IPA and the COB.

##### **A. Policy Recommendations**

1. ACPD shall continue to review the department manual directives annually. ACPD reviews these directives to ensure the department is current on best practices and aligned with court rulings and legislative updates.
2. The IPA and COB shall present in writing their recommendations with supporting rationale to the County Board, the County Manager, and the Police Chief within thirty (30) days from the date the IPA/COB adopts its recommendations. Such recommendations may also be included as part of a COB report pertaining to an individual complaint/investigation.
3. Prior to implementation of new or amended policies, ACPD shall provide the COB and IPA with an opportunity to provide recommendations within the appropriate timeline. All recommendations shall be sent to OPR in writing.
4. If ACPD declines to implement any changes recommended by the COB, the Chief of Police shall, within thirty (30) days of the COB's recommendation, create a written record, which shall be made available to the County Board, the County Manager, and the public, of its rationale for declining to implement the recommendation of the COB.

**B. Legislative Recommendations**

1. ACPD, COB, and IPA shall adhere to County guidelines on the submission of proposed legislative changes or amendments through the County Legislative Liaison.
2. ACPD may provide proposed language to the COB and IPA, for an opportunity to provide feedback
3. The COB and IPA may identify legislative changes or amendments, provide language, and present to ACPD, for an opportunity to provide feedback.

**XV. Annual Reports**

- A. At least once each year, by September 1, the COB and the IPA shall jointly or separately publish an annual public report (referencing January 1 through December 31 of the preceding calendar year) including (but not limited to) information related to the following:
  1. Public complaints pertaining to sworn law enforcement officers.
  2. Commendations pertaining to sworn law enforcement officers.
  3. Evaluations and recommendations related to ACPD policies, practices, and procedures.
  4. A summary of the evaluations and recommendations made related to ACPD budget.
  5. Statistical information and data analysis pertaining to patterns, trends and opportunities discovered in the course of the COB and IPA's oversight of ACPD activities.
- B. In order to allow the COB and IPA sufficient time to prepare their annual report, ACPD shall provide any outstanding information related to policy amendments, administrative reviews, and investigations for the preceding calendar year by March 15<sup>th</sup> of the current year.

**XVI. ACPD Response to COB/IPA Reports**

A copy of any public report from the COB or IPA shall be provided to ACPD. ACPD may respond in writing within thirty (30) days. Both the COB report and ACPD's response (if any), shall be released to the public simultaneously.

If ACPD determines they will not respond, they will notify all parties within seven (7) days, as to not delay the publishing of the report.

## **XVII. Commendations**

Commendations are compliments from the public to the COB and the IPA pertaining to sworn officers of the ACPD. The COB and IPA shall forward commendations to the Office of Professional Responsibility OPR within ACPD within five (5) business days. The COB and IPA shall include a summary of the commendations they have received during each calendar year in their annual public reporting.

## **XVIII. Non-Concurrent Investigations**

If, after making a good faith effort to participate with ACPD on a concurrent investigation, the IPA is unable to gain access to any witnesses, records, books, papers, or other evidence necessary to perform their duties or the COB's duties, the IPA may request the County Manager to require ACPD to produce the requested witnesses and documents. The County Manager shall not unreasonably deny such a request, but any production of witnesses or documents shall be limited by Arlington County Code §69-8. The County Manager shall issue a decision on the Independent Policing Auditor's request by no later than four business days following the date of that request.

If the County Manager denies the IPA's request, the COB, by two-thirds vote, may direct the IPA, on behalf of the COB, to apply to the Arlington County Circuit Court for a subpoena compelling the attendance of such witness or the production of such books, papers, and other evidence, and the court may upon good cause shown, cause the subpoena to be issued.

In seeking a subpoena, the COB shall:

- a. give ACPD reasonable notice of its intent to subpoena such witness or records and serve the County with a copy of the subpoena no later than service of such subpoena on the subject of the subpoena;
- b. not unreasonably withhold its agreement to limitations requested by the County Manager on the scope of the subpoena intended to protect confidential information and other information that may adversely affect pending matters related to the matters under review by the COB;
- c. digitally record any interviews or depositions, and make copies of any records obtained by subpoena; and
- d. provide ACPD with copies of any such interview/deposition recordings and document records.

The COB shall delegate all its authority to subpoena and question witnesses to the IPA, who shall conduct any interviews, depositions, or questioning of witnesses in a non-public forum that adequately protects the privacy of the individual being subpoenaed, the confidentiality or sensitivity of information shared or sought, and the integrity of any pending or concurrent investigation.

**XIX. Annual Review of MOU**

An initial review shall be conducted by the signatories to this MOU one year following the signing, to determine if amendments are necessary.

Additional reviews of the MOU shall occur bi-annually thereafter.

**XX. Severability**

If a provision of this MOU conflicts with a provision of the enabling ordinance, the provision of the enabling ordinance shall govern, and the remaining, non-conflicting provisions of this MOU shall remain in effect.

MEMORANDUM OF UNDERSTANDING  
ACPD – COB

**Signatories:**

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Julie Evans, Chair  
Community Oversight Board  
Date: \_\_\_\_\_

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Andy Penn, Chief of Police  
Arlington County Police Department  
Date: \_\_\_\_\_

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Mummi Ibrahim  
Independent Policing Auditor  
Date: \_\_\_\_\_

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Mark Schwartz, County Manager  
Arlington County Government  
Date: \_\_\_\_\_

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